

MILMAN LABUDA LAW GROUP PLLC

3000 MARCUS AVENUE

SUITE 3W8

LAKE SUCCESS, NY 11042

TELEPHONE (516) 328-8899
FACSIMILE (516) 328-0082

March 2, 2023

VIA ECF

United States District Court
Eastern District of New York
Attn: Hon. Lois Bloom, U.S.M.J.
225 Cadman Plaza East
Courtroom 11A South
Brooklyn, NY 11201-1804

Re: Stidham v. 161-10 Hillside Auto Ave, LLC, et al.
Case No.: 1:21-cv-7163 (HG) (LB)
MLLG File No.: 94-2019

Dear Judge Bloom:

This office represents the Defendants in the above-referenced case.

Defendants write to respectfully request that this Court permit Defendant Jory Baron's deposition to proceed on Friday, March 3, 2023 instead of Defendant Andris Guzman due to a conflict that prevents Defendant Guzman from appearing at his Court-ordered deposition.

In an effort to facilitate discovery and continue the parties' momentum in completing same,¹ Defendants requested that Plaintiff's consent to this request. Plaintiff asked for information concerning the reason for the request to switch dates, but your undersigned cannot provide this information without waiving attorney-client privilege.

As a result, when your undersigned informed Plaintiff that I have no information to share other than the fact there is a conflict, Plaintiff stated (and asked that I include her position in my application) that she does "not consent to the switch of the witnesses 2 days before the deposition due to an unclear, uncorroborated conflict that has arisen." This position is inherently unreasonable, as Defendants are offering to keep both deposition dates without adjournment and merely switch the witnesses. Mere courtesy and civility expected between counsel, but absent here, would have absolved the need for the instant application.

¹ Defendants completed Plaintiff's deposition on Friday, February 17, 2023. Your undersigned was forced to contact this Court twice due to Plaintiff's inappropriate behavior at the deposition; regrettably, nobody answered the phone each time I called both the Court's chambers and courtroom deputy. Defendants reserve the right to seek appropriate relief for Plaintiff's violations of Rule 30 during her deposition, as well as for any other inappropriate conduct during the deposition that need not be detailed here. Meanwhile, Plaintiff completed the deposition of Defendant Ishaque Thanwalla on Friday, February 24, 2023 without incident.

This Court, of course, has ample authority to permit this request. See Wood v. F.B.I., 432 F.3d 78, 84 (2d Cir. 2005) (holding that a district court has “broad discretion to manage pre-trial discovery”); see also Ampong v. Costco Wholesale Corp., 550 F.Supp.3d 136, 139 & n.2 (S.D.N.Y. 2021) (collecting cases)(holding that court has broad discretion, *inter alia*, under Rule 26(d)(3) to control the timing and sequence of discovery); EM Ltd. v. Republic of Argentina, 695 F. 3d 201, 207 (2d Cir. 2012) (“[a] district court has broad latitude to determine the scope of discovery and to manage the discovery process”), aff’d sub nom. Republic of Argentina v. NML Capital, Ltd., 134 S. Ct. 2250 (2014).

Indeed, courts are permitted to *and have* altered the sequence of depositions. See, e.g., DDK Hotels, LLC v. Williams-Sonoma, Inc., No. 19-CIV.-226 (ILG) (CLP), 2020 WL 13450954, at *6 (E.D.N.Y. Feb. 25, 2020) (“The Court directs plaintiffs to proceed with the depositions of the other proffered witnesses first”).

Accordingly, Defendants’ motion to alter the sequence of the depositions should be granted.

Defendants thank this honorable Court for its time and attention to this case.

Dated: Lake Success, New York
March 2, 2023

Respectfully submitted,

MILMAN LABUDA LAW GROUP PLLC

/s/ Emanuel Kataev, Esq.

Emanuel Kataev, Esq.
3000 Marcus Avenue, Suite 3W8
Lake Success, NY 11042-1073
(516) 328-8899 (office)
(516) 303-1395 (direct dial)
(516) 328-0082 (facsimile)
emanuel@mllaborlaw.com

Attorneys for Defendants

VIA ECF

Troy Law, PLLC
Attn: Tiffany Troy, Esq.
4125 Kissena Boulevard, Suite 103
Flushing, NY 11355-3101
tiffanytroy@troypllc.com

Attorneys for Plaintiff